



## MICHIGAN INDIGENT DEFENSE COMMISSION

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Michigan Indigent Defense Commission Meeting Minutes  
200 N. Washington Square, Lower Level  
Lansing, MI 48933  
October 16, 2018  
Time: 1:00 PM

### **Commission Members Present**

Michael Puerner, Chair, Judge Thomas Boyd, Thomas Clement (non-voting member), Judge Jeffrey Collins, Frank Eaman, Judge James Fisher, Joseph Haveman, Derek King, Tom McMillin, Brandy Robinson, Kristina Robinson, Dr. David Schuringa, William Swor, and Gary Walker

### **Participating via Telephone**

Nancy Diehl

### **Commission Members Absent**

John Shea

### **Members of the Public Present Included:**

Deena Bosworth, Malcolm Brown, Eugene Butler, Barbara Caskey, Christopher Forsyth, Jennifer France (via telephone), Mary Ann Jerge, Fred Johnson, Brian Kennedy, Mickey Knight, John Nizol, Donald Parker, Craig Paul, Kay Perry, Laura Porter (via telephone), Mary Ann Talon, Genevieve Taylor (via telephone), Dawn Van Hoek, Nancy Waldman, Frank Waters, Shelli Weisberg,

### **Staff Members Present**

Loren Khogali, Christopher Dennie, Tanya Grillo, Barbara Klimaszewski, Marla McCowan, Kelly McDoniel, Rebecca Mack, Chris Sadler, Jonah Siegel, Kristen Staley (via telephone), and Marcela Westrate

Chair Puerner called the Michigan Indigent Defense Commission (“MIDC” or “the Commission”) meeting to order at 1:08 pm.

### **Public Comment**

Members of the public were invited to introduce themselves to the Commission and to offer comments.

Grand Traverse and Oakland Counties submitted letters to the MIDC in September that were distributed to members of the Commission.

Jennifer France offered comments on behalf of the Chippewa County Public Defender's Office.

Nancy Waldman from the 45<sup>th</sup> District Court in Oak Park offered comments in support of that system's request for additional grant funding.

Deena Bosworth offered comments on behalf of the Michigan Association of Counties.

Mary Ann Jerge offered comments on behalf of Oakland County.

Donald Parker, Chair of the Livingston County Board of Commissioners, offered comments on behalf of that county.

Christopher Forsyth offered comments on behalf of Grand Traverse County.

Craig Paul offered comments on behalf of Kent County.

Fred Johnson, Muskegon County Public Defender, offered comments on behalf of that county.

Dawn Van Hoek offered comments on behalf of Wayne County regarding that county's request to extend the date on its planning grant.

### **Additions to the Agenda**

There were no additions to the agenda. Mr. Swor moved that the agenda be adopted, Mr. Walker supported the motion. The motion carried.

### **Consent Agenda**

Ms. Brandy Robinson moved that the consent agenda containing the minutes from the meeting on August 21, 2018 be adopted. Judge Boyd seconded the motion. The motion carried.

### **Chair Report**

Mr. Puerner reviewed the Commission meeting materials and updated the Commission on progress made since the last Commission hearing.

### **Executive Director Report**

Ms. Khogali provided a written report for Commissioners and welcomed any questions about its content. She thanked the staff and commissioners for their ongoing work and participation in meetings, mediation and presentations since the last commission meeting.

### **Macomb Feasibility Study Presentation and Discussion**

Ms. Grillo provided an overview of the study. Ms. Taylor and Ms. Porter presented via telephone about the details of the project and its findings. Ms. Caskey and Mr. Nizol offered their perspectives on the project.

## **Mediation**

### **Oakland County**

Ms. Khogali and Ms. McCowan provided an overview of the unresolved issues in the Oakland County mediation. Ms. Khogali thanked Ms. Brandy Robinson for attending the mediation sessions on behalf of the Commission.

The disapproval of the compliance plan was based on the inclusion of funding for prosecutors and magistrates (and related funding requests). Ms. Khogali and Ms. McCowan advised the Commission that the parties have been unable to reach a resolution to dispute. Pursuant to MCL 780.995(2)(b), MIDC staff worked with Oakland County to complete a final compliance plan and cost analysis.

Judge Fisher moved that Oakland County's final plan and final cost analysis be approved. Mr. Swor seconded the motion. The motion carried.

### **Isabella County**

Ms. Khogali and Ms. McCowan provided an overview of the mediation process with Isabella County. Ms. Khogali thanked Mr. Puerner for attending on behalf of the Commission.

Mr. Swor moved that the mediation settlement and revised cost analysis be approved. Judge Fisher seconded the motion. The motion carried.

### **Hazel Park**

Ms. Khogali and Ms. McCowan provided an overview of the mediation process with Hazel Park.

Judge Fisher moved that the mediation settlement, the revised plan and the revised cost analysis be approved. Judge Boyd seconded the motion. The motion carried.

## **Discussion of Grant Disbursement and Requests by Local Systems**

### **Wayne County Request for Extension of Planning Grant**

Ms. Khogali updated the Commission on the project and its activities. Wayne County has requested a 60-day extension on the grant through May 31, 2019. Ms. Van Hoek provided an overview of the County's Request for Proposals process and current timeline.

Judge Collins moved that Wayne County be given the 60-day extension. Judge Fisher seconded the motion. The motion carried, Ms. Kristina Robinson abstaining from the vote.

The Commission recessed from 2:55 pm until 3:19 pm.

### **Oak Park Grant Amendment Request**

Ms. McCowan provided an overview of the request. Ms. Mack reviewed the initial cost analysis submitted by the local system. Ms. Grillo provided additional details. Ms. Waldman answered questions from the Commission.

Judge Fisher moved that Oak Park's request to amend its grant amount for construction costs be forwarded to the Construction/Cost Allocation Committee chaired by Ms. Diehl for that Committee's review. Mr. Eaman seconded the motion. The motion carried.

### **Houghton Grant Agreement Request**

Ms. McCowan provided an overview of the request. Houghton requested the advance on its grant be increased to 50%. MIDC staff recommends that this amount be advanced.

Judge Boyd moved that the staff recommendation be adopted, and that Houghton be advanced 50% of its grant amount. Judge Fisher seconded the motion. The motion carried.

### **Discussion of Grant Disbursement to Local Systems**

Chair Puerner updated the Commission on the work done with individual counties and the Michigan Association of Counties. Chair Puerner provided an overview of the Executive Committee's proposed changes to the grant agreement including changes in the distribution of funds and a modification of the compliance reporting requirements. The Executive Committee proposes a distribution schedule of a 50% initial distribution, and one 25% distribution in January of 2019 and the final distribution in April of 2019.

Judge Boyd moved that the Commission modify the distribution schedule to a 50% initial disbursement and then two subsequent 25% distributions, contingent upon the passage of a subsequent motion regarding compliance reporting requirements. Judge Fisher seconded the motion. The motion carried.

Judge Boyd moved that the Executive Director be authorized to continue working with individual systems on quarterly reporting requirements, and this schedule be included as part of the grant agreement that will be distributed to and signed by local systems. Judge Fisher seconded the motion. The motion carried.

The Commission did not discuss the calculation and application of the requirement in MCL 780.993 (10) that gives an indigent criminal defense system 180 days to comply with the terms of the approved plan. Judge Fisher moved that the issue be tabled. Judge Boyd seconded the motion. The motion carried.

### **Standards 5-8 Update**

Ms. McCowan gave an overview of some of the questions that she and regional managers were receiving on the implementation of standard 8.

The Standard 6 Caseload Committee met and recommended that the Commission move forward with Standard 6 as written and submitted to the Department of Licensing and Regulatory Affairs (LARA). The Committee further recommends that the Commission review the preliminary recommended case maximums, as well as the RAND Corporation report, which staff expects to receive in November, and determine how to implement the new findings including the eventual submission of an amended standard. Once the report is complete, regional managers will share the findings with their funding units to notify them of what they may expect in future plan and grant cycles.

Dr. Siegel gave an update of the process and results of the workload study.

Judge Boyd moved that the Standard 6 Caseload Committee's recommendation be adopted. Mr. Swor seconded the motion. The motion carried.

### **Attorney General Memoranda of Understanding (MOU)**

Ms. Khogali presented two memoranda for the Commission's review.

Judge Boyd moved that both be adopted. Judge Fisher seconded the motion. The motion carried.

### **Discussion of Collection of Reimbursements and Workgroup**

Ms. Khogali summarized the meetings held between the MIDC, LARA, the State Budget Office and the State Court Administrator's Office to discuss collections of reimbursements from partially indigent defendants pursuant to the amended MIDC Act. Ms. Khogali recommended that a small workgroup be created to work on this issue.

Judge Boyd moved that the workgroup be created. Mr. Swor seconded the motion. The motion carried.

### **Discussion of Partial Indigency Standards Committee Charge**

Ms. Khogali recommended that a combined committee with those members involved in the amendments to the MIDC Act and the Indigence and Compensation Committee begin working on standards to determine whether defendants are defined as indigent or partially indigent.

Judge Boyd moved that the committee be created and that Chair Puerner appoint its members. Mr. Walker seconded the motion. The motion carried.

Judge Collins moved that the meeting be adjourned. Mr. Swor seconded the motion. The motion carried.

The Commission's next meeting will be December 18, 2018.

The meeting adjourned at 5:00 pm.

Respectfully submitted,

Marcela Westrate